

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:09CR198
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
LUIS REYES-CISNERO,)	
)	
Defendant.)	

This matter is before the Court on the government's motion to dismiss the forfeiture count, strike the preliminary order of forfeiture, and close the forfeiture case (Filing No. 132).

On October 15, 2009, the Defendant pleaded guilty to Counts I, II, and III of the Superseding Indictment. Count III is a forfeiture count with respect to a firearm. On November 16, 2009, the Court entered a preliminary order of forfeiture. On January 4, 2010, the Defendant was sentenced, and Judgment was entered the following day. On January 20, 2010, the government moved to dismiss Count III, strike the preliminary order of forfeiture, and close the forfeiture case because on January 11, 2010, the ATF informed the government that the firearm will be forfeited administratively.

No authority was presented to the Court indicating that the Court may dismiss a count after the Defendant has pleaded to that count and after Judgment has been entered. The Court is not aware of any such authority. Count II charges that the Defendant must forfeit "any and all" interest in the firearm. Therefore, if the firearm is administratively forfeited, the Defendant will not have "any" remaining interest to forfeit. The motion is denied.

IT IS ORDERED that the government's motion to dismiss the forfeiture count, strike the preliminary order of forfeiture, and close the forfeiture case (Filing No. 132) is denied.

DATED this 5th day of February, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge